UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

JOHN RENEE BLACK]	
Petitioner,]	
]	
v.]	No. 3:06-0252
]	Judge Trauger
DAVID MILLS, WARDEN]	
Respondent.]	

ORDER

The Court has before it a *pro se* § 2254 petition (Docket Entry No. 1) for writ of habeas corpus, respondent's Motion to Dismiss (Docket Entry No. 18) and the petitioner's Response in Opposition to the Motion to Dismiss (Docket Entry No. 19).

In accordance with the Memorandum contemporaneously entered, the Court finds that the petitioner has failed to state a claim upon which habeas corpus relief can be granted.

Therefore, the respondent's Motion is GRANTED and this action is hereby DISMISSED. Rule 8(a), Rules -- § 2254 Cases.

With the dismissal of this action, the petitioner's pending application to proceed in forma pauperis (Docket Entry No. 3) and motion for the appointment of counsel (Docket Entry No. 4) are DENIED as MOOT.

Should the petitioner file a timely notice of appeal from this order, such notice shall be treated as an application for a certificate of appealability, 28 U.S.C. § 2253(c), which will NOT issue because the petitioner has failed to make a substantial showing of the denial of a constitutional right.

It is so ORDERED.

Aleta A. Trauger

United States District Judge